

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

ROSA GONZALEZ)
)
)
Plaintiff,)
)
v.) **CASE NO.14-446**
)
)
SMITHFIELD FOODS, INC.,)
FARMLAND FOODS, INC., ED)
RITSCH, JUSTIN HILDEBRAND,)
M.D., MANUEL GARCIA, DEMIS)
VILLALOBOS, SANTA)
DOMINGUEZ, JOHN DOES AND)
JANE ROES)
)
Defendants.)

DEFENDANT'S NOTICE OF REMOVAL

Defendant Smithfield Farmland Corp., f/k/a Farmland Foods, Inc. files this Notice of Removal of the case filed by Plaintiff Rosa Gonzalez in the 16th Judicial Circuit Court of Jackson County, Missouri, bearing cause number 1416-CV-07973 (the “State Court Action”), because Plaintiff’s claims arise, in part, under the laws of the United States pursuant to 28 U.S.C. §§ 1331 and 1441. In support thereof, Defendants respectfully shows the Court the following:

**I.
FACTUAL BACKGROUND**

Plaintiff was employed by Smithfield Farmland in its Kansas City, Missouri, plant at the time of her termination. Plaintiff’s employment with Smithfield Farmland was terminated on May 21, 2013, because, following an investigation, Smithfield Farmland determined that Plaintiff struck another employee in violation of Company policy.

II.
COMPLIANCE WITH LOCAL RULES AND 28 U.S.C. § 1446(a)

Pursuant to Local Rules 7.0 and 7.1 and 28 U.S.C. § 1446(a), this Notice of Removal is accompanied by copies of the following:

- (a) a completed civil cover sheet;
- (b) an original of the notice of removal with a copy of each of the following attached to the original:
 - (i) an index of all documents that clearly identifies each document and indicates the date the document was filed in the State Court Action (Exhibit A);
 - (ii) a copy of the docket sheet in the State Court Action (Exhibit B);
 - (iii) a copy of each document filed in the State Court Action arranged in chronological order according to the state court file date (Exhibit C-1 to C-10);
- (c) Defendants' Consent to Removal (Exhibit D);
- (d) a separately signed Certificate of Interest that complies with Federal Rule of Civil Procedure 7.1 and Local Rule 7.1 (Exhibit E); and
- (d) all process, pleadings, and orders served on Smithfield Farmland (Exhibit F).

III.
The Parties

According to the Plaintiff's allegations contained in her complaint, Plaintiff is a citizen of the state of Kansas. Smithfield Farmland is a Delaware corporation with its headquarters located in Smithfield, Virginia. Defendant Smithfield Foods, Inc. is incorporated in Virginia with its headquarters in Virginia. Defendants Ed Ritsch, Manuel Garcia, Demis Villalobos and Santa

Dominguez are individuals residing in Missouri and are current employees of Smithfield Farmland. Defendant Justin Hildebrand, M.D. has not been served with process and his residence is unknown by Smithfield Farmland at this time. All Defendants who have been properly served with process have consented to this removal. (Exhibit D).

IV.
THE STATE COURT ACTION

On April 4, 2014, Plaintiff filed the State Court Action, in which she alleges that the collective Defendants discriminated and retaliated against her because of her race, national origin and age in violation of Title VII and the Age Discrimination in Employment Act of 1967. Complaint, ¶¶ 12-13. Plaintiff also contends Defendants violated the Missouri Civil Rights Act, Missouri State Constitution and the Fourth Amendment to the United States Constitution. Finally, Plaintiff contends Defendants wrongfully terminated her employment, created a hostile work environment and were negligent per se. *Id.*, ¶¶ 12-13. Plaintiff also made a jury demand in her Complaint.

Smithfield Farmland was served with Plaintiff's Complaint on April 18, 2014. Smithfield Farmland has not yet filed its Answer to Plaintiff's Complaint. This case is being removed within thirty (30) days of Smithfield Farmland's receipt of Plaintiffs' Complaint in accordance with 28 U.S.C. § 1446(b).

V.
REMOVAL BASED ON FEDERAL QUESTION JURISDICTION

Removal is proper because Plaintiff's Complaint in the State Court Action raises a federal question. *See* 28 U.S.C. § 1441(b). The State Court Action is removable pursuant to 28 U.S.C. § 1441(b) because it originally could have been brought in this Court under the Court's original jurisdiction under 28 U.S.C. § 1331. Plaintiff purports to assert causes of action under

Title VII and the Age Discrimination in Employment Act. Thus, the State Court Action arises under the laws of the United States. *See* 28 U.S.C. § 1331.

Plaintiff also purports to allege state law claims violation of the Missouri Civil Rights Act, violation of the Missouri State Constitution, creation of hostile work environment, retaliation, wrongful discharge/termination, violation of public policy and negligence per se. Plaintiff's purported state law claims do not present complex issues of state law, nor do they predominate over the claims over which this Court has original jurisdiction. Accordingly, removal of Plaintiff's state law claims is proper under 28 U.S.C. § 1441(c), and this Court may exercise supplemental jurisdiction over these claims pursuant to 28 U.S.C. § 1367(a).

**VI.
VENUE IS PROPER**

Venue is proper in this district pursuant to 28 U.S.C. § 1441(a) because this district and division embrace the place in which the removed action was pending.

**VII.
STATE COURT NOTICE OF REMOVAL**

In accordance with 28 U.S.C. § 1446(d), Smithfield Farmland is serving written notice of this Notice of Removal to all adverse parties promptly after its filing and will promptly file a copy of this Notice of Removal with the Clerk of the 16th Judicial Circuit Court of Jackson County, Missouri.

**VIII.
PRAYER**

Pursuant to these statutes and in conformance with the requirements set for in 28 U.S.C. § 1446, Defendant Smithfield Farmland hereby removes this action from the 16th Judicial Circuit Court of Jackson County, Missouri on this 19th day of May, 2014.

Respectfully submitted,

By: /s/Anne E. Baggott
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**ATTORNEYS FOR DEFENDANTS
SMITHFIELD FOODS INC., ED
RITSCH AND MANUEL GARCIA**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been forwarded to counsel of record via certified mail, return receipt requested on this 19th day of May, 2014, as follows:

Rosa Gonzalez
1715 Ruby Avenue
Kansas City, KS 66103

/s/Anne E. Baggott

Anne E. Baggott